

News Release



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Labor Department Restores Assets To Iowa Company's Profit Sharing Plan

DES MOINES--The U. S. Department of Labor has obtained a consent decree requiring the former owner of Valley Restaurant, Inc., of Atlantic, Iowa, to restore \$39,751 to the company's profit sharing plan for failing to diversify the plan's investments.

The decree, entered in federal district court in Des Moines, resulted from the department's lawsuit against Carl Sierp. The suit alleged that Sierp violated his duties as a plan trustee when he sold the mutual fund shares of the plan and purchased 27.96 acres of undeveloped land in Iowa in 1981 and 1982. The investment in land left the plan unable to make required distributions to participants. To enable the plan to pay benefits, Sierp made a series of personal loans to the plan in violation of the Employee Retirement Income Security Act. In addition, he leased six acres of the plan's land, retained \$3,400 in rent proceeds, and failed to file annual reports since 1999.

The decree also requires Carl Sierp to file a final annual report for the plan and terminate the plan. Sierp will be allowed to assume title to the land as his benefit distribution, after restoring money representing the value of the participants' interest in the land.

"This action underscores the Labor Department's commitment to protecting the retirement benefits promised to employees," said Robert Webber, acting director of the Kansas City regional office of the department's Employee Benefits Security Administration (EBSA).

Valley Restaurant, Inc. ceased operations in 1988 and sold some of its assets to a new owner. The plan had 26 participants and \$39,751 in net assets as of Feb. 19, 2004.

Employers with similar problems, who are not yet the subject of an investigation by EBSA, may be eligible to participate in the department's Voluntary Fiduciary Correction Program (VFCP). Participation in the VFCP requires employers to make workers whole but allows them to avoid EBSA enforcement actions, civil penalties and applicable excise taxes. For more information about the VFCP, see www.dol.gov/ebsa.

The court decree resulted from an investigation conducted by the Kansas City office. Employers and workers can reach EBSA's Kansas City Regional Office at (816) 426-5131 or through EBSA's toll-free number, 1-866-444-EBSA (3272), for help with problems relating to private-sector retirement and health plans. In fiscal year 2003, EBSA achieved record monetary results of \$1.4 billion related to the pension, 401(k), health and other benefits of millions of American workers and their families.

(Chao v. Carl Sierp)
Civil Action No. 04-CV-80008

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